IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 3965 of 2005

Between:

Smt.S.Varalakshmi, W/o. Late Narasimha
R/o. Ramapuram village, Vykuntapadu Mandal,
Nellore District.

..... PETITIONER

AND

1 Kendriya Vidyalaya Sangham, Ministry of Human Resources Development Department,
Rep. by its Secretary, Govt. of India, 18, Institutional Area, Saheed Jeetsing Marg, New Delhi-16.
2 The Deputy Commissioner (Admn.) Kendriya Vidyala Sangathan,18, Institutional Area, Saheed Jeetsing Marg, New Delhi.16
3 The Assistant Commissioner, Kendriya Vidyala Sangathan, (HR), Secunderabad.
4 The Principal, Kendriya Vidyala, Bollaram,
Alenbyt Lines, Secunderabad-87.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more in the nature of Writ of Certiorari calling for the records relating to and in connection with the order of the 2nd respondent in his proceedings F.No.2-3(MCA) 2001 KVS(E.IV) Dt.5.4.2002, as confirmed by the order in O.A.No.581 of 2004 dt.21.8.2004 on the file of the Central Administrative Tribunal, Hyderabad Bench at Hyderabad as illegal, arbitrary and contrary to the scheme of compassionate appointment and consequentially to set aside the same and pass appropriate orders.

Counsel for the Petitioner: MR.K.ANANDA RAO

Counsel for the Respondents: MR.B.NARASIMHA SARMA

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 31.08.2004, passed by the Central Administrative Tribunal, Hyderabad Bench in O.A.No.581 of 2004.

2. The matter relates to appointment on Compassionate Appointment Scheme. The

husband of the petitioner was working as lab attendant at Kendriya Vidyalaya, Bollaram, Secunderabad. While so, unfortunately he died on 02.01.2001. Thereafter, the petitioner-widow made an application to the respondents for compassionate appointment on 16.02.2001, but however, the said application was rejected on 05.04.2002 on the ground that no vacancies were available to accommodate her as the vacancies under 5% quota of compassionate appointment have already been filed up. Therefore, she approached the Tribunal by filing the O.A.

3. The learned Tribunal, after considering the matter, dismissed the O.A., against which the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that the order of the Tribunal is wholly illegal and contrary to law. Even though the vacancies are available, the respondents are not being filled up on various reasons and that the department should be directed to appoint the petitioner, even if vacancies are not available, by creating supernumerary post to save the family from the financial problems and also keeping in view the above object of Compassionate Appointment Scheme.

5. The learned standing counsel for the Central Government submits that only 5% quota has been earmarked for the unfortunate events in case of deaths or disablement or medical retirements etc. If there are no vacancies beyond the said 5% quota, the applicants cannot be accommodated and they will be considered only in the next available quota, and therefore, the order cannot be said to be illegal and contrary to law.

6. We have heard the learned counsel for the petitioner and also the learned standing counsel for the Central Government.

7. There is no dispute that the Central Government has earmarked only 5% of posts under Compassionate Appointment Scheme, but the question that calls for consideration is, in case of non-availability of posts, can it be said that the dependent has to wait for decades together in anticipation of availability of

vacancies, that would defeat the very purpose of providing Compassionate Appointment Scheme and also employment to the dependent of the deceased employee.

8. Admittedly, in the instant case, there are no vacancies, and therefore, the appointment of the petitioner has been denied. It is stated by the learned standing counsel for the Central Government that as and when the vacancies arise, the case of the petitioner shall be considered, but there should be some time limit for waiting period also. In case, if the vacancies are not available for 5 or 10 years, then it would defeat the very purpose itself.

9. Under those circumstances, we suggest that the Central Government should give a rethinking on this aspect as the very purpose of providing compassionate appointment will be defeated, if the beraved families are not accommodated within a reasonable time. Therefore, in cases where the vacancies are not immediately available, the Central Government should think of creating supernumerary posts to the extent necessary and to regularize those appointments as and when regular vacancies arise under 5% quota that would be in tune with the scheme itself. We are sure the Government shall bestow its attention and pass appropriate orders in this regard.

10. With the above observation, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 21.03.2005

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To

1 The Secretary, Kendriya Vidyalaya Sangham,
Ministry of Human Resources Development Department,
Government of India, 18, Institutional Area, Saheed Jeetsing Marg, New Delhi-16.
2 The Deputy Commissioner (Admn.) Kendriya Vidyala Sangathan,18, Institutional Area, Saheed Jeetsing Marg, New Delhi.16
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